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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,637	02/28/2002	Donald J. McMichael	KCX-518A (17507A)	5368

7590 07/21/2005

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/085-637

EXAMINER

ART UNIT

PAPER

20050714

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Commissioner for Patents

A review of the file indicates that on September 16, 2004, appellants filed an Appeal Brief under the rules set forth in 37 CFR 1.192(c). However, the rules under 35 U.S.C. 1.192 (c) were abolished on September 13, 2004 and replaced by 37 CFR 41.37 (c). Accordingly, the Appeal Brief filed on September 16, 2004 does not comply with the new rules because of the following sections were missing from the Appeal Brief and applicant is required to provide a substitute Appeal Brief in compliance with 37 CFR 41.37(c) and with regarding to the following sections.

- (1) "Summary of claimed subject matter" as set forth in 37 CFR 41.37 (c) (1) (v);
- (2) "Grounds of rejection to be reviewed on appeal" as set forth in 37 CFR 41.37 (c) (1) (vi);
- (3) "Evidence appendix" as set forth in 37 CFR 41.37 (c) (1) (ix); and
- (4) "Related proceedings appendix" as set forth in 37 CFR 41.37 (c) (1) (x).

Applicant is given one (1) month from the mailing date of the instant Office Action to provide the substitute Appeal Brief.

Luan K Bui
Primary Examiner
Art Unit: 3728

Communication Re: Appeal

Application No.

10/085,637

Examiner

Luan K. Bui

Applicant(s)

MCMICHAEL ET AL.

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
- (c) ☐ the appeal fee received on _____ was not timely filed.
- (d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$_____.
- (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☒ The appeal brief filed on 16 September 2004 is NOT acceptable for the reason(s) indicated below:

- (a) ☒ the brief ~~and/or brief fee~~ is untimely. See 37 CFR 41.37(a). *(see attached)*
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
- (c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
- (d) ☐ other: _____.

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration.